

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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In the Matter of)

Amendment of the Commission's Regulatory)
Policies To Allow Non-U.S.-Licensed Space)
Stations to Provide Domestic and International)
Satellite Services In the United States)

and)

Amendment of Section 25.131 of the)
Commission's Rules and Regulations to)
Eliminate the Licensing Requirement for)
Certain International Receive-Only Earth)
Stations)

and)

COMMUNICATIONS SATELLITE)
CORPORATION)
Request for Waiver of Section 25.131(j)(1))
of the Commission's Rules as it Applies to)
Services Provided via the Intelsat K Satellite)

To: The Commission

IB Docket No. 96-111

CC Docket No. 93-23
RM-7931

File No. ISP-92-007

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

OPPOSITION OF COLUMBIA COMMUNICATIONS CORPORATION

Columbia Communications Corporation ("Columbia"), by its attorneys and
pursuant to Section 1.429 of the Commission's Rules (47 C.F.R. § 1.429), hereby
opposes, in part, the relief requested by ABC, Inc. ("ABC") in its petition for

reconsideration filed in the above-captioned proceeding.^{1/} Columbia has previously participated in all stages of this proceeding, most recently by filing comments and reply comments in response to the Commission's July 1997 Further Notice of Proposed Rule Making.^{2/}

ABC seeks reconsideration of the Commission's decision not to exempt video services from the application of the ECO-Sat test for satellites licensed by non-WTO countries ("non-WTO" systems), but limits its request for relief on reconsideration to occasional video service transmissions.^{3/} ABC argues that, along with the other television networks, it requires "the ability to transmit video and associated audio programming from anywhere-to-anywhere on short notice, using whatever transmission capacity is reasonably available at the time."^{4/}

As the Commission found in the DISCO II Order, however, "an ECO-Sat test is a minimal burden compared to the market distorting impact and competitive harm in the United States that may result if a U.S.-licensed system is denied access in the

^{1/} *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, FCC 97-399, slip op. (released November 26, 1997) ("DISCO II Order").

^{2/} See Columbia Comments, filed August 21, 1997; Columbia Reply Comments, filed September 5, 1997.

^{3/} See ABC Petition at 1 & n.2.

^{4/} ABC Petition at 2-3.

relevant foreign market.”^{5/} While ABC emphasizes the “detailed, fact-intensive”^{6/} nature of an ECO-Sat showing and the relatively small revenues associated with occasional video services,^{7/} it does not provide sufficient reason to forego this analysis entirely for a specific type of service. Each particular service, when isolated from all other transmissions, may constitute a relatively small portion of total revenues — but the Commission should not start down the road of selective application of the ECO-Sat standard based on the type of service to be provided.

In order to utilize any non-U.S. satellite to provide service to the United States, an entity must submit an application to add the point of communication. It seems to Columbia that it is not unfair to require a standard showing in connection with this request regardless of what service is to be provided. If, as ABC argues, “the burden is quite likely to outweigh the perceived benefits of the undertaking in order to facilitate what are likely to be sporadic transmissions,”^{8/} then there does not appear to be any compelling reason to accord special treatment for these situations.

On the other hand, Columbia believes it would be appropriate during the pendency of an application making an ECO-Sat showing to permit U.S.-licensed Earth station facilities to receive occasional video transmissions only via non-WTO satellites if

^{5/} DISCO II Order, FCC 97-399, slip op. at 35 (¶ 74).

^{6/} ABC Petition at 6.

^{7/} ABC Petition at 5.

^{8/} ABC Petition at 6.

a compelling need is demonstrated for immediate service. Moreover, in the event that application of the ECO-Sat standard would not permit general use of the satellite, the Commission might nonetheless permit occasional video service on a permanent basis upon an alternate showing that there are no suitable alternative satellite or cable facilities available for transmissions to the United States from particular locations.^{9/} Use of the satellite would then be limited to occasional video service on these specified routes. Thus, the end result that ABC seeks can be achieved without providing for an outright exemption from the Commission's policies.

* * * * *

Columbia continues to believe that there should not be a *per se* exception to the ECO-Sat standard for occasional video or other types of television transmissions. Only where special circumstances are demonstrated, *i.e.*, evidencing that no other options are available for video carriage, should the need to transmit news or other video information override the failure of a foreign administration to permit competitive

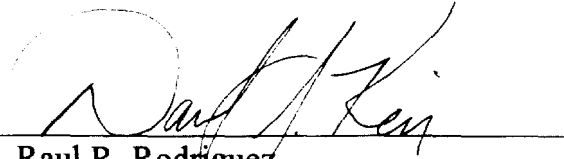
^{9/} Such an approach would address ABC's concern that "timely coverage of fast-breaking news and special events may be impeded or discouraged" by the ECO-Sat requirement. ABC Petition at 3.

opportunities. In general, exceptions to the ECO-Sat standard should not be carved out simply for the convenience or economic advantage of particular satellite users.

Respectfully submitted,

COLUMBIA COMMUNICATIONS CORP.

By:

A handwritten signature in dark ink, appearing to read "Raul R. Rodriguez", is written over a horizontal line.

Raul R. Rodriguez

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February 17, 1998

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CERTIFICATE OF SERVICE

I, Lorene J. Miller, hereby certify that I have this 17th day of February, 1998, caused true copies of the foregoing "Opposition of Columbia Communications Corporation " to be served by first class mail, postage prepaid, on the following:

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